



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,017	07/21/2003	Gary Mitchell Davenport	IAM 0574 PA	5722

27752 7590 04/24/2007
THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.
WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

DAVIS, RUTH A

ART UNIT	PAPER NUMBER
----------	--------------

1651

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/624,017	DAVENPORT ET AL.	
	Examiner	Art Unit	
	Ruth A. Davis	1651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-26, 29-33, 35-36 is/are rejected.
- 7) ☒ Claim(s) 27, 28 and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's response filed on February 15, 2007, to the request for information mailed on December 16, 2006 has been received and entered into the case. Claims 23 – 36 are pending.

The references, statements and arguments provided by applicant have been fully considered.

Claim Objections

1. Claims 27, 28 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

Art Unit: 1651

the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 23 – 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill's Science Diet or Nutro Fiber Clean.

~~Applicant claims a process for controlling fecal hair excretion and trichobezoar formation~~
in an animal, the process comprising feeding the animal a composition comprising about 10 – 42% crude protein, 4 – 30% fat, 1 – 25% total dietary fiber and a supplemental fiber source; wherein the animal is a cat or rabbit. Specifically the composition comprises about 1 – 13% supplemental fiber source. The supplemental fiber source is selected from at least one fermentable fiber; a blend of at least two fermentable fibers; a blend of at least one fermentable fiber and a cellulose ether; a blend of at least one fermentable fiber, a cellulose ether and mineral oil; and a blend of at least one fermentable fiber and at least one non-fermentable fiber.

Hill's and Nutro both teach a cat food comprising crude protein, fat and total dietary fiber in amounts within the claimed ranges, in addition to a supplemental fiber (natural vegetable fibers, or fermentable fibers), wherein the food is effect for preventing hairballs (see ingredients and discussions). Although the references do not specifically teach a process for controlling fecal hair excretion and trichobezoar formation, the references clearly indicate the cat foods are effective for controlling hairballs. As such, one in the art would have been motivated to feed either of the foods to a cat with a reasonable expectation for successfully controlling formation of hairballs.

Art Unit: 1651

The references do not teach the claimed amounts of supplemental fiber. However, in following the teachings of Hill's and/or Nutro, it would have been obvious to one of ordinary skill in the art to optimize the amounts of supplemental fibers, as they are indicated to be the effective element in controlling the formation of hairballs. Moreover, the supplemental fiber is recognized as a result effective variable. Thus, at the time of the claimed invention, one of ordinary skill in the art would have been motivated by routine practice and experimentation to optimize the amount of supplemental fiber in the foods of Hill's and/or Nutro, with a reasonable expectation for successfully obtaining a cat food effective for controlling hairballs.

5. Claims 23 – 26, 29 – 33 and 35 – 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill's or Nutro in view of Reinhart (US 5616569).

Applicant claims a process for controlling fecal hair excretion and trichobezoar formation in an animal, the process comprising feeding the animal a composition comprising about 10 – 42% crude protein, 4 – 30% fat, 1 – 25% total dietary fiber and a supplemental fiber source; wherein the animal is a cat or rabbit. Specifically the composition comprises about 1 – 13% supplemental fiber source. The supplemental fiber source is selected from at least one fermentable fiber; a blend of at least two fermentable fibers; a blend of at least one fermentable fiber and a cellulose ether; a blend of at least one fermentable fiber, a cellulose ether and mineral oil; and a blend of at least one fermentable fiber and at least one non-fermentable fiber. Specifically, the fermentable fiber is selected from beet pulp, gum arabic, FOS and blends thereof; beet pulp; or beet pulp and cellulose; and is present at about 6 – 12%; or 10 – 12%

Art Unit: 1651

supplemental fiber. More specifically, the supplemental fiber is about 6% beet pulp, about 2% gum arabic, about 1.5% FOS; about 6% beet pulp and about 6.5% cellulose; or about 12% beet pulp.

Hill's and Nutro both teach a cat food comprising crude protein, fat and total dietary fiber in amounts within the claimed ranges, in addition to a supplemental fiber (natural vegetable fibers, or fermentable fibers), wherein the food is effective for preventing hairballs (see ingredients and discussions). Although the references do not specifically teach a process for controlling fecal hair excretion and trichobezoar formation, the references clearly indicate the cat foods are effective for controlling hairballs. As such, one in the art would have been motivated to feed either of the foods to a cat with a reasonable expectation for successfully controlling formation of hairballs.

The references do not teach the foods with the claimed sources of fibers. However, at the time of the claimed invention, the claimed supplemental fibers were well known and used in the art for cat foods. In support, Reinhart teaches cat foods (col.2 line 14-19, col.3 line 15-20, example 5) wherein the food comprises the claimed amounts of crude protein, fat and total dietary fiber in addition to about 3 – 9% supplemental, fermentable fiber (col.2); and wherein the supplemental fiber may include beet pulp, gum arabic, FOS, cellulose and mixtures thereof (examples).

The references do not teach the claimed amounts of supplemental fiber. However, in following the teachings of Hill's and/or Nutro, it would have been obvious to one of ordinary skill in the art to optimize the amounts of supplemental fibers, as they are indicated to be the effective element in controlling the formation of hairballs. Moreover, the supplemental fiber is

Art Unit: 1651

recognized as a result effective variable. Thus, at the time of the claimed invention, one of ordinary skill in the art would have been motivated by routine practice and experimentation to optimize the amount of supplemental fiber in the foods of Hill's and/or Nutro, with a reasonable expectation for successfully obtaining a cat food effective for controlling hairballs. It is further noted that the amounts of supplemental fiber disclosed in Reinhart are close to, if not the same as, those claimed by applicant. Thus, in following the teachings of Hill's and/or Nutro it would have been obvious to one of ordinary skill in the art to use the instant fibers in the claimed amounts as they were well known supplemental fibers used in cats food, as evidenced by Reinhart.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth A. Davis whose telephone number is 571-272-0915. The examiner can normally be reached on M-F 7:00 -3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1651

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ruth A. Davis
Primary Examiner
Art Unit 1651

A handwritten signature in black ink, appearing to read 'Ruth A. Davis', with a stylized, cursive script.

April 23, 2007